

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

DUSTAN DENNINGTON

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1:07-cr-43-SJM-1

ORDER

AND NOW, *to wit*, this 8th day of July, 2009, the Defendant having filed a motion [62] to suppress evidence on April 7, 2009 and the Court having held oral argument concerning said motion on June 12, 2009 and having further determined that a review of the transcript is necessary for proper disposition of the pending motion, and the transcript [65] of said argument having been filed this same date,

THE COURT HEREBY FINDS that the period of time from April 7, 2009 through July 8, 2009 is excludable time pursuant to 18 U.S.C. § 3161(h)(1)(D).¹ *See Henderson v. United States*, 476 U.S. 321, 326-331 (1986) (finding that 18 U.S.C. § 3161(h)(1)(F) – the subsection under which § 3161(h)(1)(D) was previously codified – excludes all time between the filing of the pretrial motion and the hearing thereon, as well as all time following the hearing during which the court awaits the filing of additional materials by the parties that are needed for proper disposition of the motion); *U.S. v. Mora*, 135 F.3d

¹ Pursuant to this Court's plan for prompt disposition of criminal cases, oral arguments on motions are typically scheduled within ten (10) days from the date that reply papers concerning the motion are due. In this case, the Government's brief in opposition to the Defendant's motion was filed on May 7, 2009 and argument was held on June 12, 2009. To the extent that delay occurred in the scheduling of oral argument of this matter, the Court finds that such delay is independently excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), inasmuch as the argument date was chosen to accommodate the parties' good faith scheduling conflicts, as well as the Court's need for reasonable time in which to adequately prepare for the argument. Extensions of time pursuant to § 3161(h)(7)(A) are to be liberally granted where, as here, the ends of justice served by the delay outweigh the best interest of the public and the Defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

1351, 1355 n.2 (10th Cir. 1998) (excludable time under § 3161(h)(1)(F) may include the time during which the court awaits the preparation of the transcript, if such is necessary for the proper disposition of the motion); *United States v. Blankenship*, 67 F.3d 673, 676-77 (8th Cir. 1995) (same).

IT IS SO ORDERED.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
United States District Judge

cm: All counsel of record.